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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,195	02/10/2005	Ryoji Fujii	10873.1633USWO	4102

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902-0902
MINNEAPOLIS, MN 55402

EXAMINER

GILBERT, ANDREW M

ART UNIT	PAPER NUMBER
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3767

MAIL DATE	DELIVERY MODE
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08/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/524,195

Applicant(s)

FUJII, RYOJI

Examiner

Andrew M. Gilbert

Art Unit

3767

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-19.
Claim(s) withdrawn from consideration: 20-22.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons

Andrew Gilbert
Andrew Gilbert
8/9/2007

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant's arguments do not overcome the prior art of record.

The Applicant argues that :

1) Willis fails to teach a slit having a predetermined depth from the outer-end face of the main body extending in the length direction.

The Examiner first references the Applicant to paragraphs 23 and 24 of the Final Office action mailed on 5/7/2003. The Examiner notes that the claim limitation the slit has a pre-determined depth from the outer-end face of the main body that extends in the same direction as the length direction is still currently broad enough to include a slit that originates at a predetermined longitudinal depth away from the outer-end face of the main body and extends away in a longitudinal direction in a predetermined depth towards the inner-end face where the slit concludes. This is the configuration of Willis. There is no claim limitation requiring the slit to originate at the outer end face. See paragraphs 23 and 24 for Examiner suggestions to overcome the prior art.

2) Willis does not disclose that a space is formed between the external surface of the valve member (42) at a part without the stiffening members (80) and an internal wall of the tubular portion (58) of the valve housing.

The Examiner notes that areas 70 and 72 shown in Fig 7-8 are recessed from the internal wall (58) while the stiffening member (80) contact the internal wall (80). Figure 8 clearly shows how 70 and 72 are recessed and Fig 7 clearly illustrates how the areas 70 and 72 are recessed from the internal wall and form a space between the external surface of the valve member and an internal wall of the tubular portion of the valve housing.

3) Willis does not disclose a bore being closed by a compressive force applied from the internal wall of the cover to the septum via the compression ribs.

The Examiner first references the Applicant to paragraph 25 of the Final Office action. The Examiner notes that Willis discloses the stiffening members (80) to be sized to be slightly compressed when inserted into the tubular portion (58) to bias the walls 70 and 72 together to a sealed position. The Applicant claims that this sealed position is distinguishable from a closed position recited in the claim language. The Examiner respectfully disagrees for two reasons. First, Webster's dictionary defines "sealed" as "to close or make secure against access, leakage, or passage". In this case, the bore being sealed is the same and the bore being closed. The language is equivocal. Secondly, as previously discussed in paragraph 24 of the Final Office action, the Applicant's claim limitations of the bore is broad enough to include an interpretation that the bore (52) is inclusive of the opening the slit seals. The length of the bore continues to the end of the inner-end face of the main body. Thus, the stiffening members (80) act under compressive force from the internal wall of the cover to seal, or close, the bore at the site of the slit. See paragraph 24 for Examiner suggestions to overcome the prior art.

AG
8/9/2007

